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EXAMINER

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ART UNIT

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/593,937
Filing Date: September 22, 2006
Appellant(s): WITSCHAS, EBERHARD

Klaus Stoffel
Reg. 31,668
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6-12-2009 appealing from the Office action mailed 6-27-2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,941,115	Minnerop	8-1999
6,425,278	Aratani et al.	7-2002

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4,472,642	Wilson	9-1984
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4,423,612	Uppaluri	1-1984
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SMS "SMS Demag Newsletter", 9, No. 2, September 2002.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-6, 11, 12 and 14 are rejected under 35 U.S.C 102(b). The rejection is set forth in the Final Office Action, dated 6-27-2008. The rejection is repeated below for the convenience of the Board of Appeals and Interferences.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Minnerop et al. (5,941,115). Minnerop discloses a machine for installing machine unit foundations (2a,3a,4a) having roll sets (12) wherein the foundations are prefabricated and preassembled on site next to the production line (column 3, lines 32-45). The roll sets and foundations are inserted into a production line (1) as a complete modular unit along displacement tracks (16). In column 2, lines 1-5 Minnerop discloses that the preassembled installation is completely examined (tested) with the fittings mounted on during preassembly.

Claims 1-3, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by "SMS Demag Newsletter", 9, No. 2, Sept. 2002. SMS discloses in figures 1-4 a method of installing concrete foundations into a machine line by displacing them from an area to the side of the machine line into a position within the machine line.

Claims 1-6 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson (4,471,642). Wilson discloses a machine for installing machine unit foundations

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(13) having roll stands (12) wherein the foundations are prefabricated and preassembled on site next to the production line (column 2, lines 49-63 and column 4, lines 8-11). The roll sets and foundations are inserted into a mill line as a complete modular unit along displacement tracks (33). Wilson discloses slideways (58) and pairs of double presses (50) carrying elevating members (53) for lifting and inserting vertical stands.

The following ground(s) of rejection are applicable to the appealed claims: Claims 7-10 are rejected under 35 U.S.C 103. The rejection is set forth in the Final Office Action, dated 6-27-2008. The rejection is repeated below for the convenience of the Board of Appeals and Interferences.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (4,471,642) in view of Aratani et al. (6,425,278). Wilson does not disclose that the presses are supported on lifting points embedded in displacement tracks. Aratani teaches (column 6, lines 12-27) that it is known to use shift rails (34) attached to beams (36) which are lifting points for lifting and lowering rolling stands (27) into position. The lifting beams are driven by presses (37) from beneath the rails (34). It would have been

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obvious to one skilled in the art at the time of invention to provide Wilson with lifting beams driven by presses underneath the rails as taught by Aratani in order to raise and lower the machine units for placement in the mill line from below the rails.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (4,471,642) in view of Uppaluri (4,423,612). Wilson does not disclose roll markings. Uppaluri teaches markings (38) for reference position on a roll housing. It would have been obvious to one skilled in the art at the time of invention to provide the stand of Wilson with reference position markings as taught by Uppaluri in order to lock the stand into position.

(10) Response to Argument

Applicant's arguments filed in the Appeal dated 6-12-2009 have been fully considered but they are not persuasive. Applicant has set forth "machine foundations and/or rolling stands" including "all" associated elements. The Examiner maintains that the cited references used to reject the claims are intended to include all necessary components to be processed offline and then the associated equipment or foundation is moved online to speed production. It is not possible to determine the scope of "all" when Applicant is trying to cover "foundation and/or rolling stand". It is not possible to determine from the claim language if a "machine foundation" is a working machine installation that has a rolling stand on it or if it just the base. A foundation does not necessarily have any rolling stand components on it and it could be moved into the line as a dummy or with any amount of the "all" components necessary to use the foundation as a testing or real time stand.

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Applicant sets forth lifting points/surfaces and displacement tracks and on page 15 of the specification states "the foundation block 1 with the stands mounted on it is aligned horizontally by means of presses. The foundation block is then raised, the slide bearings are removed, and the whole unit is dropped/lowered and vertically aligned". The cited references include tracks on which roll stands and their bases are moved in and out of the line. The Examiner does not agree that the claims overcome the roll set (12) and guide fittings (20) disclosed by Minnerop, the foundation of the SMS reference or the stand (12) and bed plate (13) disclosed by Wilson.

Applicant has stated that claims 7-10 stand and fall with claim 1 and this is noted.

For these reasons the rejections are proper and should be maintained.

/Edward Tolan/

Primary Examiner, Art Unit 3725

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